

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

ROBERT ROMERO,

Plaintiff,

v.

Civil Action No. _____

TRADER JOE'S COMPANY and
PARKER STALEY,

Defendants.

NOTICE OF REMOVAL OF CIVIL ACTION

TO: THE CLERK FOR THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO:

PLEASE TAKE NOTICE that Defendants Trader Joe's Company and Parker Staley hereby remove the above-entitled action from the First Judicial District Court, Santa Fe County, New Mexico, to the United States District Court for the District of New Mexico on the grounds that this Court has original jurisdiction under 28 U.S.C. § 1331 (federal question), and this action is one that may be removed to this Court by Defendants pursuant to 28 U.S.C. §§ 1337(a), 1441, and 1446. Defendants respectfully submit the following statement of grounds for removal on the basis of this Court's federal question jurisdiction.

In support of this Notice of Removal of Civil Action, Defendants state:

1. On December 19, 2023, Plaintiff filed an Amended Complaint for Damages and Demand for Jury Trial in the First Judicial District Court, Santa Fe County, New Mexico, entitled *Robert Romero v. Trader Joe's Company and Parker Staley*, Case No. D-101-CV-2021-01192. Plaintiff's Amended Complaint alleges that Defendants discriminated against him on the

basis of his race/national origin and retaliated against him. Plaintiff's Amended Complaint alleges – for the first time – claims under the Federal Civil Rights Act, 42 U.S.C. § 1981(a), *et seq.*, as well as claims under the New Mexico Human Rights Act.

2. On December 19, 2023, Plaintiff served Defendants with his Amended Complaint. True and correct copies of all process (email service) and the Amended Complaint are attached hereto as **Exhibit 1**. All other pleadings and orders served upon Defendants in the state court action are being filed with the Court as required by 28 U.S.C. § 1446 and in accordance with D.N.M. LR-Civ. 81.1. *See* 28 U.S.C. § 1446(a).

3. This Court has federal question jurisdiction over this action under 28 U.S.C. § 1331, and removal jurisdiction under 28 U.S.C. § 1441, in that it is a civil action arising under the Constitution, laws or treaties of the United States, specifically the Federal Civil Rights Act, 42 U.S.C. § 1981, *et seq.* Thus, the Amended Complaint itself, although filed in New Mexico state court, invokes the jurisdiction of this Court pursuant to 28 U.S.C. § 1331. “A case arise[s] under federal law within the meaning of § 1331 . . . if a well-pleaded complaint establishes either that federal law creates the cause of action or that the plaintiff's right to relief necessarily depends on resolution of a substantial question of federal law.” *Empire Healthchoice Assurance, Inc. v. McVeigh*, 547 U.S. 677, 689–90 (2006).

4. With respect to the other cause of action that may be considered separate and independent from those arising under federal law, it is also removable under 28 U.S.C. § 1441(c). This Court has jurisdiction over Plaintiff's state law claims pursuant to the doctrine of supplemental jurisdiction under 28 U.S.C. § 1337(a) as they are so related to the federal claims as to form part of the same case or controversy under Article III of the U.S. Constitution. Here,

the Federal claim and the claim under the New Mexico Human Rights Act arise under the exact same operative facts. *See* Ex. 1, Pl's Am. Compl. at 16-17, ¶¶ 53-57. Thus, because Plaintiff's state claims are also removable, this action is removable in its entirety.

5. This action is properly removed to this Court under 28 U.S.C. §§ 1441, 1446, and 1337(a) because it is pending in Santa Fe County, New Mexico, which lies within this District.

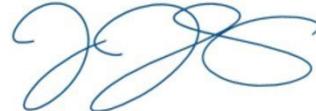
6. A Notice to Adverse Party of Removal to Federal Court is being filed in state court and served simultaneously herewith, in accordance with 28 U.S.C. § 1446(d), and a copy is attached as **Exhibit 2**.

7. A Notice of Removal to Federal Court is being filed in state court and served simultaneously herewith, in accordance with 28 U.S.C. § 1446(d), and a copy is attached as **Exhibit 3**.

Respectfully submitted this 2nd day of January, 2024.

Respectfully submitted,

LITTLER MENDELSON, P.C.



Jay J. Athey
JAtthey@littler.com
201 Third Street NW, Suite 1950
Albuquerque, NM 87102
505.944.9693 (telephone)
505.213.0415 (facsimile)

R. Shawn Oller (NM State Bar No. 8787)
soller@littler.com
LITTLER MENDELSON, P.C.
Camelback Esplanade
2425 East Camelback Road, Suite 900
Phoenix, AZ 85016
Telephone: 602.474.3600
Facsimile: 602.957.1801

Attorneys for Defendants

I hereby certify that, on January 2, 2024, I filed the foregoing using CM/ECF, which caused service by electronic means on Plaintiff and all counsel of record as follows:

Richard Rosenstock
richard.rosenstock@gmail.com
Daniel Yohalem
daniel.yohalem@gmail.com
1121 Paseo de Peralta
Santa Fe, New Mexico 87501

Attorneys for Plaintiff



Jay J. Athey